

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CAROL S. MARCELLIN, individually, and as
Co-Administrator of the Estate of Charles E.
Hollowell, deceased, and JESSICA
HOLLOWELL-McKAY, as Co-Administrator
of the Estate of Charles E. Hollowell,
deceased,

Plaintiffs,

v.

HP Inc., and STAPLES, INC.,

Defendants.

**Civ. No. 1:21-cv-00704-
JLS**

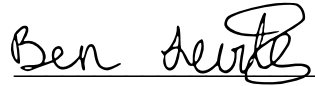
**DECLARATION OF BENJAMIN LEVITES IN SUPPORT OF MOTION TO
PRECLUDE REPORTS AND TESTIMONY OF STEVE MARTIN**

Pursuant to 28 U.S.C. § 1746, I, Benjamin Levites, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief:

1. I am an attorney duly admitted to practice in the State of New York and an associate in the firm of Coughlin Betke, LLP, attorneys for Defendants HP Inc. (“HP”) and Staples, Inc. herein, and as such, I am fully familiar with the facts and circumstances surrounding this case. I make this declaration in support of HP’s Motion to Preclude.
2. Attached hereto as Exhibit A is a true and correct copy of the October 14, 2024 report of Steve W. Martin, PhD disclosed by plaintiffs in this matter on October 16, 2024.
3. Attached hereto as Exhibit B is a true and correct copy of the March 7, 2025 deposition of Steve W. Martin.

4. Attached hereto as Exhibit C is a true and correct copy of the January 3, 2025 report of Steve W. Martin, PhD disclosed by plaintiffs in this matter on January 3, 2025.
5. Attached hereto as Exhibit D is a true and correct copy of Larsson, F., et al., *Gas explosions and thermal runaways during external heating abuse of commercial lithium-ion graphite-LiCoO₂ cells at different levels of ageing*, JOURNAL OF POWER SOURCES, 373, 220-231 (2018).
6. Attached hereto as Exhibit E is a true and correct copy of the declaration of Quinn Horn PhD, P.E., who was disclosed as an expert by the defendants on December 6, 2024.
7. On December 6, 2024, HP disclosed the report of expert Joseph Sala, Ph.D., whose opinions included:
 1. “Based on the available data, and consistent with related publications on fire and explosion hazards related to lithium-ion batteries reviewed above, there were relatively few incidents involving lithium-ion batteries across the range of applications by the 2011 time period the subject laptop was sold to Staples by HP and purchased/registered by Ms. Marcellin.” Rept. at 10.
 2. “In fact, at the time of the computer’s manufacture, there were no requirements, guidance, or recommendations with respect to the presentation of an on-screen warning related to safety information regarding a counterfeit and/or unauthorized third-party battery.” Rept. at 15.

DATED: Monday, May 12, 2025

A handwritten signature in black ink, appearing to read "Ben Levites", is positioned above a horizontal line.

Benjamin H. Levites, 5557046

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